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November 30, 2005

FILED ELECTRONICALLY

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

**Re: TELEVISION STATION SECTION 339(a)(2)(D)(vii) WAIVER REQUEST
MB Docket No. 05-317**

**Raycom National, Inc.
KHNL-DT, Honolulu, HI
Facility ID # 34867**

Dear Ms. Dortch:

Pursuant to the instructions set forth in Public Notice DA 05-2979,¹ Raycom National, Inc., licensee of KHNL-TV and permittee of KHNL-DT, Honolulu, Hawaii ("the station" or "KHNL")² respectfully requests waiver of Section 339(a)(2)(D) of the Communications Act to prohibit testing of KHNL's digital signal coverage to decide whether a satellite system may deliver a distant digital signal to a viewer within the Grade B contour of KHNL's analog signal. As described below, KHNL's digital signal coverage is

¹ *TV Station Requests for Waiver of Digital Testing Pursuant to the Satellite Home Viewer Extension and Reauthorization Act of 2004 to be Filed by November 30, 2005 or February 15, 2007*, Public Notice, DA 05-2979 (rel. Nov. 17, 2005) ("Waiver Notice").

² KHNL is the NBC affiliate in Honolulu, Hawaii, which is Nielsen DMA Market Rank # 72. Raycom National is also the permittee of KOGG-DT in Wailuku, Hawaii, which will operate as a satellite of station KHNL-DT. For similar zoning and environmental legal impediments, KOGG-DT is also seeking, via a separate request, waiver of digital signal testing under Section 339(a)(2)(D)(vii) of the Act.

Federal Communications Commission
November 30, 2005
Page 2 of 4

limited due to “clear zoning or environmental legal impediments” and accordingly such waiver is warranted under Section 339(a)(2)(D)(viii)(II) of the Act.³

Raycom National, Inc. (“Raycom National”), a wholly owned, direct subsidiary of Raycom Media, Inc., was granted a construction permit on March 16, 2000, to operate KHNL’s DTV facilities on Channel 35 (BPCDT-19991029AFK). However, as the Commission is aware and has publicly acknowledged, KHNL and other television stations in Hawaii have faced unique delays in finding viable sites for their DTV facilities.⁴ Following is a summary of how these clear, unremediable zoning and environmental impediments have limited buildout of KHNL’s DTV service:

As an initial matter, because of the unsuitability and the insufficiency of space at the site of KHNL’s analog facilities atop the Hilton Hawaiian Village in downtown Honolulu, Raycom National was forced to find a new site for the station’s DTV facilities. In addition, the Honolulu City Council passed an ordinance in the late 1980s banning construction of any new television or radio broadcasting antennae within the Honolulu city limits. Thus, Raycom National was not only forced to locate a site apart from KHNL’s existing analog facilities, but had to find a site entirely outside of Honolulu.

In an attempt to secure a DTV site as quickly and efficiently as possible, Raycom National began working with the other broadcasters in the late 1990s to identify possible sites adequate to handle the technical and physical requirements of the groups’ DTV stations. After much consideration, the group rejected the first site under consideration – an existing site on Tanatalus – because it lacked adequate space to accommodate the DTV facilities.

In January 1999, the broadcasters began searching for a new site at Palehua Ridge and identified a possible site known as Puu Manawahua. After numerous meetings with the State Department of Land and Natural Resources, the broadcasters contracted with a local law firm in October 2001 to help locate the owners and lessees of the site. Once all of the lessees were contacted, a meeting was held to discuss the location of the DTV tower at the site. The public service agencies occupying the site raised concerns about possible interference to their radio frequencies from the DTV stations. An engineering firm was consulted, and the parties determined that it would be possible to reduce the interference through the use of adequate spacing. Such adequate spacing ultimately would have required

³ See *Waiver Notice* at 2.

⁴ See, e.g., *Requests for Extension of the Digital Television Construction Deadline – Commercial Television Stations with May 1, 2002 Deadline*, Order, 18 FCC Rcd 22705 ¶ 15 (2003).

COVINGTON & BURLING

Federal Communications Commission

November 30, 2005

Page 3 of 4

a 600 to 800-foot tall tower, however, and this was deemed unacceptable by government and community groups. As a result, the broadcasters were forced to abandon the possibility of building a community tower at the Puu Manawahua site.

Raycom National and the other broadcasters then turned their attention to multiple, unoccupied private lands owned by the estate of James Campbell ("Campbell Estate"). Studies were conducted for several sites on these private lands, and one site that previously was used by the Federal Aviation Administration was identified as a probable site. Unfortunately, the broadcasters encountered multiple challenges to building their joint DTV facility at this site. For example, the DTV stations could have caused interference to an FCC monitoring station in nearby Waipahu; the site had inadequate electrical and telecommunications infrastructure that would have required extensive upgrades; and there was a threat that the government would designate the site as a critical habitat, which would likely have precluded DTV construction. Following these setbacks, one broadcaster announced its intention to withdraw from the community tower plan.

While plans for a community tower were unraveling, Raycom National secured an agreement from the Campbell Estate to construct the DTV facilities of KHNL and sister station KFVE on land which Raycom National was already leasing for the analog operations of KFVE(TV). Because this land was already cleared for television operations, it did not face threat of designation as a critical habitat. Unfortunately, the tower on which KFVE(TV) operated, which provided the most advantageous coverage in the leased area, could not accommodate additional antennae. Accordingly, the KHNL-DT site had to be constructed on a less desirable site approximately four miles from the existing KFVE(TV) tower, somewhat limiting KHNL's DTV coverage area.

On November 16, 2004, the Commission's Media Bureau granted Raycom National's application for Special Temporary Authority ("STA") to construct and operate the KHNL-DT facilities from the less desirable site on the Campbell Estate. Raycom National completed construction, made the required health care facility notifications, conducted equipment tests, and later commenced program tests. Around that time, it became clear that the community tower plan would not bear fruit, and thus that KHNL would have to remain on the less desirable Campbell Estate site throughout the transition. Raycom National accordingly asked the Commission to modify KHNL-DT's construction permit to specify the STA site.

Once the transition is complete and analog broadcasts cease, Raycom National intends to seek relocation of KHNL-DT's operations to the more desirable site on the Campbell Estate from which KFVE(TV) currently operates. In the meanwhile, because of the unremediable zoning and legal impediments to location of KHNL's DTV facilities elsewhere, some population of viewers within KHNL's analog service contour are unable to receive KHNL-DT's over-the-air signal.

COVINGTON & BURLING

Federal Communications Commission

November 30, 2005

Page 4 of 4

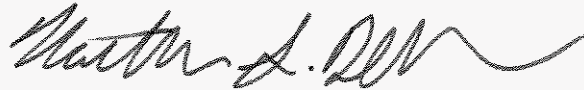
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Based on the foregoing, there can be no doubt that KHNL's digital signal coverage has been limited due to unremediable zoning and environmental legal impediments. Accordingly, Raycom National respectfully requests that the Commission grant a waiver exempting KHNL from digital signal testing in accordance with Section 339(a)(2)(D)(viii)(II) of the Act.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Matthew S. DelNero", with a stylized flourish at the end.

Matthew S. DelNero

Counsel for Raycom National, Inc.

cc: Nazifa Sawez (by hand delivery)